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SUPREME COURT OF ERRORS

November Term, 1961

Date of Supreme Court Judgment — Nov. 28, 1961

Decision Announced — Dec. 12, 1961

IN RE APPLICATION OF ARTHUR J. PLANTAMURA FOR ADMISSION TO THE BAR.

Application by Arthur J. Plantamura for admission to the bar without examination, brought to the Superior Court in Fairfield County and heard by the court, **Bordon, J.**; judgment denying the application, from which the applicant appealed, **No error.**

Arthur J. Plantamura, pro se, the appellant.

Joseph G. Shapiro, with whom was **Joseph J. Devine,** for the appellee (standing committee for Fairfield County on recommendations for admission to the bar).

King J. The applicant was admitted to the bar of the District of Columbia on April 24, 1953. Thereafter, he practiced patent law in Washington for more than five years. On October 19, 1960, he applied for admission to the bar of Connecticut without examination under § 8, page 27, of the Practice Book, as amended in a matter immaterial to the present controversy (Cum. Sup. 1960). From a denial of his application he has appealed.

Proceedings for admission to the bar "are in the nature of investigations by the courts or their repre-

sentatives to determine whether the candidate is qualified to become an officer of the courts." **Heiberger v. Clark,** 148 Conn. 177, 182, 169 A.2d 652. Such proceedings "are taken primarily for the purpose of preserving the courts of justice from the official ministration of persons unfit to practice in them." Id., 183. Attorneys are "officers of the court appointed to assist the court in the administration of justice and . . . the property, liberty and often the lives of their clients are in their hands, so that a very high degree of intelligence, knowledge, academic and legal training [and] judgment . . . is demanded." Id., 186. It is unnecessary to repeat the principles governing admission to our bar and the paramount power of the court in that connection; these are clearly set forth in the **Heiberger** case, supra.

The application was denied solely on the ground that the applicant had not fulfilled the requirements in subdivision (2) of § 8, the material portions of which are set out in the footnote.[1] Although the applicant claimed that he had practiced patent law in Washington for more than five years, he admitted that at no time had he had occasion to practice, nor had he in fact practiced, in the United States District Court for the District of Columbia, which is "the highest court of original jurisdiction" in the

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[1] "[Practice Book] Sec. 8. ADMISSION OF ATTORNEYS OF OTHER STATES. Any member of the bar of another state, who . . . (2) has actually practiced law for at least five years in the highest court of original jurisdiction in one or more states, or in one or more district courts of the United States, and is in good standing, may be admitted by the court as an attorney without examination . . ." (Section as effective May 15, 1957.)

District of Columbia and is a "district court of the United States." See Practice Book § 8.

The question dispositive of this appeal is the meaning, in its application to the applicant, of the phrase "actually practiced law for at least five years in the highest court of original jurisdiction . . . or in one or more district courts of the United States." The claim that the applicant is entitled to admission necessarily requires a construction of "actually practiced" as "been authorized to practice." Obviously, under that construction the applicant would be entitled to admission.

The word "actually" was added by an amendment, effective February 1, 1941, to § 8 of the 1934 Practice Book. It is not to be assumed that such a change would have been made without reason. **Brown v. Cato,** 147 Conn. 418, 421, 162 A.2d 175. Clearly, the word "actually" was inserted to emphasize the necessity of practice before a court as distinguished from a mere unexercised right to practice. Actual practice in the highest court of original jurisdiction provides a crucible for testing legal knowledge and its practical application in behalf of clients. The framers of the rule could reasonably consider that such a requirement would provide a fair and desirable safeguard for the citizens of Connecticut who might employ an attorney who had been a member of the bar of another jurisdiction and thereafter had been admitted without examination to practice in this state. In the light of the 1941 amendment, § 8 must be construed to require "actual practice" and not merely "authority to practice."

It is true, as the applicant points out, that many of the most successful and respected members of our bar seldom appear in the Superior Court, our highest court of original jurisdiction. This does not, however, destroy or minimize the obvious purpose of the framers of the rule.

As a subordinate claim, the applicant contends that the requirement is ambiguous in that it is not clear with what frequency and to what extent actual practice in court is required in order to comply with the rule. We are spared the necessity of determining this question, since in this case the applicant admittedly has not appeared in court in connection with litigation before the United States District Court for the District of Columbia nor, for that matter, before any other highest court of original jurisdiction. It is unnecessary to discuss the other claims of the applicant.

There is no error.

In this opinion the other judges concurred.

SUPERIOR COURT
FAIRFIELD COUNTY
DECEMBER 30, 1960

IN RE APPLICATION OF ARTHUR S. PLANTAMURA FOR ADMISSION AS AN ATTORNEY ON MOTION AND WITHOUT EXAMINATION

MEMORANDUM OF DECISION.

The applicant filed an application with the Clerk of the Superior Court for Fairfield County for admission as an attorney on motion and without examination. The facts are undisputed. The applicant has satisfied all requirements for admission. He has all educational qualifications, is of good moral character and has practiced (patent) law in the District of Columbia for more than five years. The Fairfield County Standing Committee on recommendations for admission to the Bar recommended that the applicant's application be denied, and, at a meeting of the Bar held on December 2, 1960, the report of the Committee was unanimously approved and adopted. The reason for the denial of the application is that the applicant has failed to meet the requirements for admission on motion in that he has not **actually** practiced law for at least five years in the highest court of original jurisdiction in one or more of the states, or in one or more of the district courts of the United States. Section 8, Superior Court Rules of admission to the Bar. It is admitted that he has practiced law in the District of Columbia for more than five years, and it is likewise admitted that during that period he has not practiced in any court.

The proceeding before the court comes in the nature of an appeal from the action of the Admission Committee in denying applicant's application for admission on motion.

The Committee claims that the Court is without power to review its action, particularly if it is regular, fair and not the result of prejudice or ill will. The applicant admits that no prejudice or ill will motivated the Committee's action.

An examination of the applicable law on the subject leads to the conclusion that the Court has the power to review the action of the Admission Committee and the Bar in withholding their recommendation for admission. **O'Brien's Petition,** 79 Conn. 46; **Higgins v. Hartford County Bar Asso.,** 111 Conn. 47; **Rosenthal v. State Bar Examining Committee,** 116 Conn. 409; **Bazil v. Boardman,** 127 Conn. 475; **Blaney v. Standing Committee,** 129 Conn. 51. However, if it appears to the Court that the Committee and the Bar withheld their recommendation for admission after an investigation, and that they acted fairly and reasonably and not from prejudice or ill will, their decision will not be disturbed. O'Brien's Petition, supra.

The applicant admits that the Committee acted reasonably, but claims that its interpretation of Sec. 8 of the rules is erroneous and too strictly construed. Section 8 deals with the admission of attorneys of other states without examination. One of the requirements for such admission is that the applicant has **actually** practiced law for at least five years in the highest court of original jurisdiction in one or

more states, or in one or more district courts of the United States. The Committee claims that even though the applicant has been a member of the Bar of the District of Columbia for the requisite period and has, in all other respects, met the necessary qualifications, his admitted failure to practice in any court is a fatal disqualification. The applicant is asking the Court to liberally construe the appropriate section so that any attorney who has practiced law elsewhere and has met all other requirements, be admitted even though his practice did not require his presence in court.

There is no doubt that many attorneys confine their practice to the office and rarely, if ever, engage in court work. As was said by our Supreme Court in **State Bar Assn. v. Connecticut Bank & Trust Co.** and **State Bar Assn. v. Hartford National Bank and Trust Co.**, 145 Conn. 222, "Practicing law is not limited to appearing in court or advising in the conduct of litigation, but embraces the preparation of pleadings and other papers incident to actions and special proceedings, conveyancing, the preparation of legal instruments of all kinds and the giving of legal advice to clients."

This case, however, did not deal with qualifications for admission to the Bar. It only concerned itself with a determination of whether certain practices of the defendant constituted the unlawful practice of law. Once an attorney has been admitted after examination he has the right to confine his practice to any field or branch of the law suitable to him. He need never engage in court work. Under the growing problems and complexities confronting clients to-

day, many outstanding lawyers devote themselves exclusively to office work, and refer court matters to counsel experienced in this field of work. Such practice does not violate any law or rule regulating admission to the Bar. Our Supreme Court has given judicial recognition of present day problems in the following language: "No valid distinction can be drawn between the part of the work of the lawyer which involves appearance in court and the part which involves advice and the drafting of instruments." **State Bar Assn. v. Connecticut Bank & Trust Co.**, supra. But the Court cannot construe that to mean that an out of state attorney who has had no court practice is eligible for admission if Rule 8 restricts such admission without examination only to applicants who have actually practiced in court. If the applicant took and passed the prescribed examinations, he could restrict his practice to any field chosen by him. But if he desires admission without examination he must conform to the requirements for such admission.

The State Bar case, relied on by the applicant, does not warrant relaxation of the requirements for admission. The language differentiating between various activities of lawyers is intended to illustrate what activities constitute unauthorized practice of law. It is in harmony with the decision in **Grievance Committee of the Bar of New Haven County v. Payne**, 128 Conn. 325, which held that searching titles for banks and attorneys by a Town Clerk was an invasion of the field of law and amounted to practice of law.

The Court is sympathetic with the applicant's con-

tention and inclines to a liberal interpretation of the rule. The road block to such action, however, seems to be the decision of the Supreme Court in the case of **Application of Dodd for admission to the Bar,** 132 Conn. 237. In that case the Committee had recommended his admission as a candidate "who has complied with the rules relating to admission." He had been admitted to the Bar of South Dakota but had not practiced there, although he was actively engaged in the trial of government cases in various states, not including South Dakota. The Court held that he had not qualified for admission to the Bar without examination because he had not actually practiced in the highest court of original jurisdiction of the state in which he was admitted.

The Court's indulgence does not lead it to the path of least resistance. It has been the settled and unbroken practice of our courts, under legislative sanction and authority, to admit no one as an attorney not recommended by the Bar of the County. O'Brien's Petition, supra. Under established rules, any qualified person may take examinations for admission. If, however, he chooses to seek admittance without examination, he is not the victim of discrimination if the Committee and the bar insist on strict compliance with the rule.

Although the applicant's practice may have exposed him to some contact with the courts of his district, the fact remains that, during his practice, he has had no contact or association with any court. He has never brought or caused to be brought any proceeding into a court, has never filed a pleading, nor exposed himself to any judicial process or action.

Because of this admitted fact the Committee and the Bar, acting reasonably and without ill will, have denied his application. In re Dodd, supra.

It may well be that our Supreme Court may, in the future, adopt the liberal interpretation sought by the applicant. Under the circumstances herein involved, and under the cases herein cited, the Court is of the opinion that the Committee acted properly and its action should be sustained.

The appeal of the applicant is dismissed.

Bordon, J.

THE CONNECTICUT PRACTICE BOOK
of 1951

1960 Cumulative Supplement

(Dec. 20, 1960)

Sec. 8. Admission of attorneys of other states. Any member of the bar of another state, who, after satisfying the state bar examining committee that his educational qualifications are such as would entitle him to take the examination in this state or would have entitled him to take the examination in this state at the time of his admission to the state bar of which he is a member, shall satisfy the appropriate standing committee on recommendations for admission that (1) he is of good moral character; (2) he has actually practiced law for at least five years in the highest court of original jurisdiction in one or

more states, or in one or more district courts of the United States, and is in good standing, provided if he has taken the bar examinations of this state and failed to pass them, he has actually practiced law at least ten years in such court or courts, and is in good standing; (3) is a citizen of the United States; (4) for not less than six months immediately preceding the application has been an actual resident of this state; and (5) intends to devote the major portion of his practice of the law to the state of Connecticut, may be admitted by the court as an attorney without examination upon written application and the payment to the clerk of a fee of $100, upon compliance with the following requirements: Such application, duly verified, shall be filed in duplicate with the clerk of the superior court in the county in which the applicant resides and shall set forth his qualifications as hereinbefore provided. There shall be filed with such application the following certificates or affidavits with one copy of each: Affidavits signed by two attorneys who personally know the applicant certifying to his good moral character and supporting, to the satisfaction of the standing committee on recommendations for admission to the bar, his actual practice of law as defined under (2) of this section; an affidavit signed by two members of the bar of this state of at least five years' standing that the applicant is of good moral character and has actually resided in this state for not less than six months immediately preceding the date of the filing of his application; and a certificate from the state bar examining committee that his educational qualifications are such as would entitle him to take the examination in this state or would have entitled him to take the examination in this state at the time of his admission

to the state bar of which he is a member. (Amended Feb. 25, 1957, to take effect May 15, 1957.) [No change in balance of Sec. 8, which follows.]

Upon the filing of such application, certificates and affidavits, said clerk shall send a copy thereof to the chairman of the standing committee on recommendations for admission to the bar. When said committee shall have acted upon the application it shall notify said clerk and he shall give notice to every member of the bar of the county of a meeting of the bar of the county at which the report of the standing committee on recommendations upon the application will be presented. After said application is acted upon at such bar meeting, the standing committee on recommendations for admission shall file with the clerk a copy of its report, with the action of the meeting indorsed thereon. The application for admission may then be claimed for the short calendar, of which claim the clerk shall give notice to every member of the bar of the county. Such admission shall, however, be upon a temporary license for a period of one year. Not less than thirty nor more than sixty days before the expiration of such temporary license the applicant may file his motion that such license be made permanent with the clerk, who shall forthwith give notice thereof to the standing committee on recommendations for admission. Said committee shall claim the motion for the short calendar as soon as it is prepared to make recommendations thereon to the court. If it shall appear to the court at a hearing thereon that said applicant has, since his admission, resided and devoted the major portion of his practice of the law in the state of Connecticut and intends to continue so to reside and

practice, and that his moral qualifications remain satisfactory, such license shall be made permanent; but if he shall fail to make such motion or if the court shall upon the hearing thereon refuse to make such finding, then said temporary license shall terminate upon its expiration, but the court may for good cause shown continue said hearing and extend said license for a period of not more than three months from the original date of its expiration.

Provided, however, that whenever, during the period for which such temporary license may have been issued, such licensee has entered the military or naval service of the United States and by reason thereof has been unable to continue in practice in Connecticut, the period between such entrance and his final discharge from such service, or other termination thereof, shall not be included in computing the term of such temporary license; and upon satisfactory proof to the court hearing said motion for a permanent license of such entrance and discharge or other termination, and of compliance with the other requirements of this rule, the court may make such license permanent.

35 USC § 145

Civil Action to Obtain Patent

An applicant dissatisfied with the decision of the Board of Appeals may unless appeal has been taken to the United States Court of Customs and Patent Appeals, have remedy by civil action against the Commissioner in the United States District Court for the District of Columbia if commenced within such time after such decision, not less than sixty days, as the Commissioner appoints. The court may adjudge that such applicant is entitled to receive a patent for his invention, as specified in any of his claims involved in the decision of the Board of Appeals, as the facts in the case may appear and such adjudication shall authorize the Commissioner to issue such patent on compliance with the requirments of law. All the expenses of the proceedings shall be paid by the applicant.

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35 USC § 146

Civil Action in Case of Interference

(Provides for similar discretionary jurisdiction as 35 USC § 145 in decisions in patent interferences.)